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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9847]

RIN 1545-BO71

Qualified Business Income Deduction; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9847) that were published in the **Federal Register** on Friday, February 8, 2019. The final regulations are concerning the deduction for qualified business income under section 199A of the Internal Revenue Code.

DATES: This correction is effective on **INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER** and is applicable on or after February 8, 2019.

FOR FURTHER INFORMATION CONTACT: Vishal R. Amin or Sonia K. Kothari at (202) 317-6850 or Robert D. Alinsky, Margaret Burow, or Wendy L. Kribell at (202) 317-5279.

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9847) that are the subject of this correction are issued under sections 199A and 643 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9847) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9847), that are the subject of FR Doc. 2019-01025, which published on February 8, 2019 (84 FR 2952), are corrected as follows:

1. On page 2954, second column, in the preamble, under the paragraph heading “2. Relevant Passthrough Entity”, the thirteenth line, the language “trust funds as described in §1.6032-T” is corrected to read “trust funds as described in §1.6032-1T”.
2. On page 2955, second column, in the preamble, under the paragraph heading “b. Rental Real Estate Activities as a Trade or Business”, the fifth line from the bottom of the first full paragraph, the language “respect to any real estate rental of which” is corrected to read “respect to any rental real estate of which”.

3. On page 2955, third column, in the preamble, the seventh line from the bottom of the first full paragraph, the language, “07, 2019-9 IRB,” is corrected to read “07, 2019-9 IRB 740,”.
4. On page 2957, second column, in the preamble, the fourth line from the bottom of the last partial paragraph under the paragraph headings “C. Other Comments”, the language “section 199A and 1.199A-1 through” is corrected to read “section 199A and §§ 1.199A-1 through”.
5. On page 2963, second column, in the preamble, the twelfth line, under the paragraph heading “8. Interaction of Sections 857(l) and 199A, the language “section 199A” is corrected to read “section 199A)”.
6. On page 2963, third column, in the preamble, the fifth sentence of the second full paragraph, under the paragraph heading “8, the language “A rental real estate enterprise that meets the safe harbor described in Notice 2017-07, released concurrently with these final regulations, may also treated as trades or businesses for purposes of section 199A.” is corrected to read “A rental real estate enterprise that meets the safe harbor described in Notice 2019-07, released concurrently with these final regulations, may be also be treated as a trade or business for purposes of section 199A.”.

7. On page 2968, second column, in the preamble, under section “C. Aggregation by RPEs”, the eleventh line from the bottom of the paragraph, the language “4(c)(1).” is corrected to read “4.”.
8. On page 2969, third column, in the preamble, the eighth line from the bottom of the paragraph, the language “look to the definitions provided for in” is corrected to read “look to the definitions provided in”.
9. On page 2969, third column, in the preamble, the fifteenth line, the language “engineering architecture, accounting,” is corrected to read “engineering, architecture, accounting,”.
10. On page 2970, first column, in the preamble, the second line from the bottom of the last partial paragraph, the language “of the listed fields in section 199(d)(2)” is corrected to read “of the listed fields in section 199A(d)(2)”.
11. On page 2976, third column, in the preamble, the second line under the paragraph heading “C. Services or Property Provided to an SSTB”, the language “special rules for service or property” is corrected to read “special rules for services or property”.
12. On page 2979, second column, in the preamble, the second line under the paragraph heading “3. ESBTs”, the language “proposed regulation’s position on” is corrected to read “proposed regulation’s position on an”.

13. On page 2988, first column, in the preamble, before the caption “**Drafting Information**” is amended by adding section III. to read as follows:

III. Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that this is a major rule for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801 et. seq.) Under section 801(3) of the CRA, a major rule takes effect 60 days after the rule is published in the Federal Register. Notwithstanding this requirement, section 808(2) of the CRA allows agencies to dispense with the requirements of 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and that rule shall take effect at such time as the agency promulgating the rule determines.

Pursuant to section 808(2) of the CRA, the Treasury Department and the IRS find, for good cause, that a 60-day delay in the effective date is unnecessary and contrary to the public interest. Section 199A was enacted on December 22, 2017, and applies to taxable years beginning after December 31, 2017, and before January 1, 2026. This means that the statute is currently effective and that taxpayers may claim the deduction when filing their U.S. federal income tax returns for taxable years ending in calendar year 2018. The Treasury Department and the IRS have determined that the rules in this Treasury decision are generally applicable to taxable years ending after February 8,

2019, the date this Treasury decision was published in the Federal Register. Sections 1.199A-1(f), 1.199A-2(d), 1.199A-3(d), 1.199A-4(e), 1.199A-5(e), 1.199A-6(e), and 1.643(f)-1(b) are applicable for taxable years ending after August 16, 2018, the date that the proposed regulations were published in the Federal Register. However, taxpayers may rely on the rules set forth in §§ 1.199A-1 through 1.199A-6, in their entirety, or on the proposed regulations under §§ 1.199A-1 through 1.199A-6 issued on August 16, 2018, in their entirety, for taxable years ending in calendar year 2018. These final regulations provide crucial guidance for taxpayers on how to apply the rules of section 199A, correctly calculate their deduction under section 199A, and to accurately file their U.S. federal income tax returns.

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